

UNITED STATES DISTRICT COURT

for the

Southern District of Alabama

United States of America

v.

MICHAEL DEWAYNE STEWART

Case No: 11-00270-004

USM No: 12341-003

Date of Original Judgment: August 7, 2012

Date of Previous Amended Judgment:

(Use Date of Last Amended Judgment if Any)

Pro Se

Defendant's Attorney

ORDER REGARDING MOTION FOR SENTENCE REDUCTION
PURSUANT TO 18 U.S.C. § 3582(c)(2)

Upon motion of ☒ the defendant ☐ the Director of the Bureau of Prisons ☐ the court under 18 U.S.C. § 3582(c)(2) for a reduction in the term of imprisonment imposed based on a guideline sentencing range that has subsequently been lowered and made retroactive by the United States Sentencing Commission pursuant to 28 U.S.C. § 994(u), and having considered such motion, and taking into account the policy statement set forth at USSG §1B1.10 and the sentencing factors set forth in 18 U.S.C. § 3553(a), to the extent that they are applicable,

IT IS ORDERED that the motion is:

☒ DENIED. ☐ GRANTED and the defendant's previously imposed sentence of imprisonment (as reflected in the last judgment issued) of _____ months is reduced to _____.

(Complete Parts I and II of Page 2 when motion is granted)

ADDITIONAL COMMENTS

Michael Dewayne Stewart is not eligible for a reduction. Application of the amendment would result in a new total offense level of 33, with a criminal history category of I, and a revised guideline range of 135 to 168 months. Although the defendant's guideline range would subsequently be lowered by application of the amendment, at the time of sentencing, Stewart received a sentence (72 months) which fell outside of the advisory guideline range. Pursuant to U.S.S.G. § 1B1.10(b)(2)(A), and Application Note 3, the Court may only grant a comparable reduction outside of the guideline range if the below-guideline sentence was due to the defendant providing substantial assistance to authorities. As the defendant's reduction was granted pursuant to 3553(a), a comparable reduction is not permitted. Therefore, the defendant would not benefit from a recalculation of the guidelines

Except as otherwise provided, all provisions of the judgment dated _____ shall remain in effect.

IT IS SO ORDERED.

Order Date: January 7, 2014

Callie V.S. Granade
U.S. District Judge

Digitally signed by Callie V.S. Granade U.S. District Judge
DN: cn=Callie V.S. Granade U.S. District Judge, o=U.S.
Government, ou=Federal Judiciary,
email=efile_granade@alsd.uscourts.gov, c=US
Date: 2015.01.07 10:19:36 -06'00'

Judge's signature

Effective Date: _____
(if different from order date)

United States District Judge

Printed name and title